

REMARKS

Applicant hereby requests reconsideration in view of the remarks set forth below.

Allowable Subject Matter

Claims 1-3 and 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith (U.S. 6,536,428) in view of Nakamura (JP 11323899 A). While Applicant disagrees with the rejections, the Office Action stated that Claims 4-11 contained allowable subject matter and that Claims 4-11 would be allowable if rewritten in independent form. In order to advance prosecution of the present application, Applicant has rewritten Claims 4, 6, and 8-10 into independent form, including the base claim and any intervening claims. Claims 5, 7, and 11 depend from Claims 4 and 6. Applicant does not intend to acquiesce to the rejections and is reserving the right to pursue claims at least as broad as Claim 1 in a later filed application.

Allowance of Claims 4-11 are respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Docket No.	Serial No.	Title	Filed
FPCHR.055C1DV1	12/436,486	METHOD OF CONVEYING BREATHING GASES TO OR FROM A PATIENT	May 6, 2009

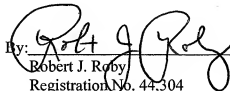
Application No.: 10/684917
Filing Date: October 14, 2003

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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